TRANSCRIPTION - ORIGINAL FOLLOWS

SUMMARY: WITH THREE DECREES DATED JULY 26 NEW REPUBLICAN GOVERNMENT HAS FINALLY MOVED TO LEGITIMIZE ITSELF IN ITS DECREE OF POWER. DECREE NUMBER ONE DECLARES STATE TO BE A REPUBLIC, NULLIFIES SYSTEM OF CONSTITUTIONAL MONARCHY AND PARLIAMENT, TRANSFERS ALL POWERS OF MONARCH AND PARLIAMENT TO PRESIDENT AND SETS LEGAL BASIS FOR PRESIDENT TO EITHER ACCEPT OTHER PROVISIONS OF CONSTITUTION AND LAWS OR REJECT AND REPLACE AS HE SEES FIT. DECREE NUMBER TWO REQUIRES ALL MILITARY, CIVIL SERVANTS AND JUDGES TO TAKE NEW OATH OF OBEDIENCE TO THE REPUBLIC AND ESTABLISHES THEIR SUBSERVIENCE TO THE LAWS AND REPUBLICAN DECREES. DECREE NUMBER THREE ABOLISHES

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TELEGRAM NUMBER 5635

JULY 30, 1973

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SUBJ : NEW GOVERNMENT ISSUES FIRST DECREES LEGITIMIZING ITS EXERCISE OF POWER

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DRAFTED BY: POL:HPLACE | EXT: 7130/73 | TEL: | APPROVED BY: AMCHARGE

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THE INDEPENDENT [4 WORDS ILLEG] SUPREME COURT AND TRANSFERS ITS POWERS TO A NEW GOVERNMENT BODY, THE COUNCIL OF JUSTICE CHAIRED BY MINISTER OF JUSTICE, SPECIFIC CONSTITUTIONAL POWERS OF CHIEF JUSTICE ALSO TRANSFERRED TO MINISTER OF JUSTICE WHILE REST OF JUDICIAL SYSTEM PERMITTED TO GO ON ENFORCING PREVIOUS LAWS SO LONG AS LAWS "DO NOT CONTRAVENE SPIRIT OF REPUBLICAN DECREES". DECREES ARE FIRST EFFORT BY GOVERNMENT TO MOVE BOTH LEGALLY AND PSYCHOLOGICALLY INTO VACUUM CREATED BY OVERTHROW OF MONARCHIAL SYSTEM AND ARE VITAL STEP FORWARD IN EFFORT TO ESTABLISH FRAMEWORK FOR GOVERNMENT. COMPLETE TEXTS BEING AIR POUCHED. END SUMMARY

1. DECREE ONE OFFICIALLY DECLARES AFGHANISTAN TO BE A REPUBLIC "IN ACCORD WITH THE TRUE SPIRIT OF ISLAM". ALL PROVISIONS OF 1964 CONSTITUTION ARE ANNULLED UNLESS SPECIFICALLY DECLARED VALID BY NEW DECREES. TITLE II OF 1964 CONSTITUTION DEALING WITH THE MONARCHY AND ITS POWERS, TITLE IX CONCERNING DECLARATION OF STATE EMERGENCY AND TITLE IV ESTABLISHING PARLIAMENT AS "MANIFESTING WILL OF THE PEOPLE" ARE SPECIFICALLY DECLARED TO BE NULL AND VOID. PARLIAMENT POWERS ARE TRANSFERRED TO PRESIDENT OF REPUBLIC UNTIL NEW CONSTITUTION CAN BE PROMULGATED. STATE OF EMERGENCY POWERS ALSO TRANSFERRED TO PRESIDENT. DECREE ALSO ESTABLISHES THAT EXISTING LAWS THAT "DO NOT CONTRAVENE REPUBLICAN REGIME AND REPUBLICAN DECREES ARE ENFORCEABLE", AND GIVES GOVERNMENT POWER TO ISSUE NEW LAWS AND DECREES WITH ENDORSEMENT OF PRIME MINISTER.

THE INDEPENDENCE OF THE JUDICIARY AS ENUNCIATED IN THE SUPREME COURT ARE TRANSFERRED TO THE MINISTRY OF JUSTICE. THE COURTS OF JUSTICE CONTROLLED BY MINISTER OF JUSTICE, SUBJECT TO CONSTITUTIONAL REVIEW. POWERS OF CHIEF JUSTICE ALSO TRANSFERRED TO MINISTER OF JUSTICE WHILE REST OF JUDICIAL SYSTEM PERMITTED TO GO ON ENFORCING PREVIOUS LAWS SO LONG AS LAWS "DO NOT CONTRAVENE SPIRIT OF REPUBLICAN DECREES". DECREES ARE FIRST EFFORT BY GOVERNMENT TO MOVE BOTH LEGALLY AND PSYCHOLOGICALLY INTO VACUUM CREATED BY OVERTHROW OF MONARCHICAL SYSTEM AND ARE VITAL STEP FORWARD IN EFFORT TO ESTABLISH NEW FRAMEWORK FOR GOVERNMENT. COMPLETE TEXTS BELOW ARE FOLLOWED. END SUMMARY

1. DECREE ONE OFFICIALLY DECLARES AFGHANISTAN TO BE A REPUBLIC "IN ACCORD WITH THE TRUE SPIRIT OF ISLAM". ALL PROVISIONS OF 1964 CONSTITUTION ARE ANNULLED UNLESS SPECIFICALLY DECLARED VALID BY NEW DECREES. TITLE II OF 1964 CONSTITUTION DEALING WITH THE MONARCHY AND ITS POWERS, TITLE IX CONCERNING DECLARATION OF STATE OF EMERGENCY AND TITLE XV ESTABLISHING PARLIAMENT AS "MANIFESTING WILL OF THE PEOPLE" ARE SPECIFICALLY DECLARED TO BE NULL AND VOID. PARLIAMENTARY POWERS ARE TO REVERT TO PRESIDENT OF REPUBLIC UNTIL NEW CONSTITUTION CAN BE PROMULGATED. STATE OF EMERGENCY POWERS ALSO TRANSFERRED TO PRESIDENT. DECREE ESTABLISHES THAT EXISTING LAWS CAN BE NOT CONTRAVENE DETAILS LEGAL REGIME AND REPUBLICAN DECREES ARE PROMULGATED. AND GOVERNMENT POWER TO ISSUE NEW LAWS AND AMEND ALL PROVISIONS OF PRIME MINISTER.

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CONTINUATION SHEET

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2. DECREE TWO SPELLS OUT LOYALTY OATH TO REPUBLIC THAT ALL MILITARY AND CIVIL SERVICE PERSONNEL MUST TAKE. IT ESTABLISHES THAT MILITARY AND CIVILIAN EMPLOYEES ARE "SUBSERVIENT TO THE LAWS AND REPUBLICAN DECREES" AND HOPEFULLY EXTRACT SOME PSYCHOLOGICAL COMMITMENT THROUGH PROCESS OF OATH TAKING.
3. DECREE NUMBER THREE ADDRESSES PROBLEM OF JUDICIAL SYSTEM AND MAKES PROVISION FOR CARRYING ON WITH NORMAL LAW ENFORCEMENT. TITLE VII OF CONSTITUTION ESTABLISHING INDEPENDENT JUDICIARY HEADED BY SUPREME COURT IS ABROGATED AND POWER OF KING TO APPOINT JUDGES TRANSFERRED TO PRESIDENT. SPECIFIC POWERS OF CHIEF JUSTICE OF SUPREME COURT AS ADMINISTRATOR OF JUDICIAL SYSTEM ARE TRANSFERRED TO MINISTER OF JUSTICE, WHILE NEW ORGAN CALLED COUNCIL OF JUSTICE WILL TAKE OVER LEGAL POWERS OF SUPREME COURT ITSELF. COUNCIL IS A GOVERNMENT BODY AND MINISTER OF JUSTICE (ALSO REFERRED TO AS ATTORNEY GENERAL IN DECREE) IS CHAIRMAN. OTHER MEMBERS ARE PRESIDENT OF COURT OF CASSATION, DEPUTY ATTORNEY GENERAL, DEPUTY MINISTER FOR ADMINISTRATIVE AFFAIRS, AND OTHER "LEARNED PEOPLE" APPOINTED BY PRIME MINISTER. REST OF DECREE DEALS WITH STRUCTURE OF JUDICIAL SYSTEM AND OATH OF LOYALTY THAT JUDGES MUST TAKE. PREVIOUS LAW ON ORGANIZATION OF JUDICIARY IS ABROGATED EXCEPT FOR THOSE PROVISIONS THAT ARE IN AGREEMENT WITH PHILOSOPHY OF THIS DECREE. SAME INTERPRETATION APPLIED TO ALL OTHER EXISTING LAWS OF THE COUNTRY, THAT IS, THOSE THAT ARE IN

[SAME PAGE]
ACCORDANCE WITH "VALUES OF REPUBLIC" ARE STILL ENFORCEABLE. DECREE ALSO MAKES

[illegible]

2. DECLARE [illegible] MILITARY [illegible]

[illegible] MILITARY AND [illegible]

AND REPUBLICAN [illegible]

EXECUTIVE AUTHORITY [illegible]

CONSTITUENT [illegible]

3. DECLARE [illegible] JUDICIAL SYSTEM AND

MAKES PROVISION FOR [illegible] OF [illegible] TITLE

VII OF CONSTITUTION [illegible] JUDICIARY [illegible]

SUPREME COURT IS ABOLISHED AND PLACE OF [illegible] JUDGES

IS TRANSFERRED TO PRESIDENT. [illegible] COURT OF [illegible] JUSTICE OF

SUPREME COURT AS ADMINISTRATOR OF JUDICIAL SYSTEM ARE TRANSFERRED

TO MINISTER OF JUSTICE. WHILE NEW ORGAN CALLED COUNCIL OF JUSTICE

WILL TAKE OVER LEGAL POWERS OF SUPREME COURT [illegible] COUNCIL IS

A GOVERNMENT BODY AND MINISTER OF JUSTICE (AND REFERRED TO AS

ATTORNEY GENERAL TO PRESIDENT) IS CHAIRMAN. [illegible]

PRESIDENT OF COURT OF APPEALS, DEPUTY ATTORNEY GENERAL, DEPUTY

MINISTER FOR JUDICIARY, STATE ATTORNEY, [illegible]

APPOINTED BY PRESIDENT [illegible]

OF JUDICIAL SYSTEM [illegible]

PRESIDENT [illegible]

FOR [illegible]

[illegible]

[illegible]

[

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"COMPONENT PARTS OF THE STATE" SUBJECT TO THE JUDICIAL SYSTEM. REFERENCE IS MADE TO ARMY [WORD ILLEG] APPEARING TO LIMIT THEIR AUTHORITY TO OFFENSES WITHIN THE ARMY, BUT THE EXACT NATURE OF THIS LIMITATION IS UNCLEAR FROM THE LANGUAGE OF THE DECREE.

4. COMMENT: THESE THREE DECREES GO FAR TO ESTABLISHING LEGAL FRAMEWORK FOR REPUBLICAN GOVERNMENT TO OPERATE. PRESIDENT HAS BEEN GIVEN ALL PARLIAMENTARY AND EMERGENCY POWERS WHILE INDEPENDENT JUDICIARY HAS BEEN ABOLISHED. PRESSURE OF SIMPLE ADMINISTRATIVE NECESSITY HAD BEEN BUILDING UP FOR SOME MEANS OF REGULARIZING DAY TO DAY ADMINISTRATIVE DECISION-MAKING AND GOVERNMENT OBVIOUSLY HOPES ISSUANCE OF DECREES AND THE OATHS THEY REQUIRE WILL STOP TALK OF DRIFT AND LACK OF LEADERSHIP THAT HAD BEEN CIRCULATING WHILE AT SAME TIME ALLOWING THE BUREAUCRACY TO OPERATE. RUMOR HAS IT THAT A CABINET WILL BE APPOINTED IN NEXT FEW DAYS WHICH WOULD BE ANOTHER AND EVEN MORE VITAL STEP IN REGINES EFFORTS TO ESTABLISH A WORKING CREDIBLE GOVERNMENT.

[illegible] PARTS OF [illegible] REPUBLICAN [illegible] SPECIAL STATUS

REFERENCE [illegible] AUTHORITY TO DECREES [illegible] THE EXACT NATURE OF

THIS DELEGATION IS [illegible] THE LANGUAGE OF THE DECREE.

4. COMMENT: THESE DECREES [illegible] TO ESTABLISH LEGAL FRAME-

WORK FOR REPUBLICAN GOVERNMENT IN DEBATE. PRESIDENT HAS BEEN

GIVEN ALL PARLIAMENTARY AND EXECUTIVE POWERS WHILE INDEPENDENT

JUDICIARY HAS BEEN ABOLISHED. PRESSURE OF SUPPLE ADMINISTRATIVE

NECESSITY HAD KEEN [illegible] UP FOR SOME MEANS OF RE-SOLDARIZING DAY

TO DAY ADMINISTRATIVE DECISION-MAKING AND GOVERNMENT OBVIOUSLY

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[illegible]